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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ROWAN, KURT C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/790,743

Applicant(s)

JOHNSON, BRYAN L.

Examiner

Kurt Rowan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,8 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,9-11 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 2-3, 8, 12-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected embodiments, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 2, 2005.
2. Applicant's election with traverse of Figs. 1-4 in the reply filed on May 2, 2005 is acknowledged. The traversal is on the ground(s) that applicant should be entitled to consideration of a reasonable number of related embodiments falling within the scope of the invention and that examination can be accomplished without a serious burden on the examiner. This is not found persuasive because since the search for the electrical circuits is different than that of a fishing rod strike sensor noting that upon the allowance of a generic claim applicant would be entitled to incorporate a reasonable number of embodiments.

The requirement is still deemed proper and is therefore made FINAL.

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sensor contained in the housing as recited in claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 15 recites that the sensor is contained in the housing, but this is not stated in the specification.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 5-7, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Mathauser '616.

The patent to Mathauser shows a fishing rod with a strike sensor 410 as shown in Fig.

10. In reference to claims 1 and 11, Mathauser shows a strain gauge sensor 410 having an electrical characteristic that varies as the sensor flexes. Mathauser shows means 412 for attaching the sensor to a fishing rod 12". Noting the "means for" language in claim 1, the claims have been given their broadest reasonable interpretation and 112, 6<sup>th</sup> paragraph has not been invoked. Mathauser shows an alarm device 102' and an electrical circuit 116 in Figs. 6-9 in electrical connection with the sensor. The circuit defines a first threshold and has an output that is activated when the electrical characteristic exceeds the first threshold as disclosed in column 8, lines 4-19. The output being in electrical connection with an alarm signaling device 76', 108'. Mathauser shows means for adjusting 88' the first threshold. Mathauser shows an electrical power source 96. In reference to claim 5, Mathauser shows a housing 400 containing the alarm signaling device, the electrical circuit, the threshold adjusting means and the electrical power source. In reference to claim 6, Mathauser shows sensor attaching means having a bridge 408 having forward and rearward ends with the rearward end 414 being supported by the housing 400 and the forward end extending from the housing. Mathauser shows clip 412 disposed on the forward end of the

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bridge. In reference to claims 9 and 10, Mathauser shows a visual signal as LED 76' and an audio signal as speaker 108'.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathauser '616 as applied to claim 1 above, and further in view of Admitted Prior Art. The patent to Mathauser shows a strike sensor for a fishing rod as discussed above and uses a strain gauge as a flexible sensor that has an electrical characteristic that varies as the fishing rod flexes. The present application discloses a flexible resistor having a resistance that varies as the resistor flexes that is known in the art as disclosed on page 10, lines 1-10. In reference to claim 4, it would have been obvious to provide Mathauser with an old and well known flexible resistor sensor to replace the strain gauge since merely one equivalent mechanical flexible sensor is being replaced with another and the function is the same.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathauser '616.

The patent to Mathauser shows a fishing rod with a strike sensor as discussed above and shows the alarm signaling device, the electrical circuit, the threshold adjusting means and the electrical power source being contained with the housing. However, in

reference to claim 15, Mathauser does not show the sensor in the housing, but it would have been obvious to locate the sensor in the housing since the rearrangement of location of parts has been held to be obvious. See *In re Japikse*, 86 USPQ 70.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cameron, Dirito, Walker, ReamsLyons, Zepeda, Karppanen, Sepeda, Ebener, Fox, Kruse, Aragon, Chu, Peck, Lowe, Blythe, Krutz, Soukup, Mathuaser '211, Adams, Mathauser '489, and Mathauser '711 show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kurt Rowan

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A handwritten signature in black ink, appearing to read "Kurt Rowan", with a long, sweeping horizontal stroke extending to the right.

Primary Examiner  
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KR